

DOCKET NO: 293369US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
GUIDO-JAN SCHMITZ, ET AL. : EXAMINER: JACOBSON, M. L.
SERIAL NO: 10/588,487 :
FILED: AUGUST 4, 2006 : GROUP ART UNIT: 1782
FOR: MULTI-LAYER COMPOSITE :
COMPRISING AN EVOH LAYER AND A
PROTECTIVE LAYER

REPLY BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

The following Reply Brief is in reply to the Examiner's Answer dated May 19, 2010 (Answer).

The Statement of the Grounds of the Rejection (Answer at 4-10) is identical to the statement in the Final Rejection, which has already been responded to in the Appeal Brief.

The following is in reply to the Response to Argument (Answer at 10-12).

Regarding Applicants' argument in the Appeal Brief that the prior art neither discloses nor suggests that the embodiment of present bonding agent layer II when component c) is not present would bond a fluoropolymer or a polyolefin to EVOH, the Examiner finds that this argument is only relevant to that embodiment, i.e., when component c) is not present, and the argument is not sufficient to rebut the *prima facie* case of obviousness (Answer at 10).

In reply, while the Examiner relies on the disclosure in Böer et al regarding a typical approach, quoted at page 6 of the Appeal Brief, the Examiner continues to ignore the disclosure immediately following, which describes the problems of such an approach, also pointed out in the Appeal Brief at page 6. Thus, no *prima facie* case of obviousness has been made out, both when component c) is not present and when component c) is present. While the Examiner finds that this argument “ignores the combination of the teachings of Schmitz, Böer, and Jadamus” (Answer at 11), the argument is made in the context of said combination, as set forth in the Appeal Brief. Indeed, the above combination of references ignores the fact that none of the applied prior art addresses the problem of bonding an EVOH-based layer to a fluoropolymer- or polyolefin-based layer.

Regarding the Examiner’s attempted rebuttal of the arguments at page 7 of the Appeal Brief (Answer at 11-12), the Examiner continues to ignore the above-discussed disclosure in Böer et al of the problems associated with Böer et al’s so-called typical approach.

Applicants continue to maintain that the rejection should be REVERSED.

Respectfully submitted,

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